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CIVIL RIGHTS

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HEARINGS
BEFORE
SUBCOMMITTEE NO. 5
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
EIGHTY-EIGHTH CONGRESS
FIRST SESSION
ON
MISCELLANEOUS PROPOSALS REGARDING THE CIVIL RIGHTS
OF PERSONS WITHIN THE JURISDICTION OF THE
UNITED STATES

MAY 8, 9, 15, 16, 23, 24, 28; JUNE 13, 26, 27; JULY 10, 11, 12, 17,
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PART III

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House of Representatives, 88th Congress

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almost totally limited to cases where the State constitution or State statutes on their face deny or create the inability to enforce a citizen's equal rights. Review of this old decision which would almost certainly be reversed if properly before the Supreme Court has been precluded by the provision, enacted in 1940, of 28 U.S.C. 1447(d) which bars all review, either by a U.S. court of appeals or by the U.S. Supreme Court of the decision of a U.S. district judge remanding such a case to the State courts. Furthermore, 28 U.S.C. 1446(c) limits the possibility of removal to the time before trial has begun; assuming that removal is made easier, this would require those concerned with civil rights to remove every case in which prejudice is possible, thus imposing a great burden on the Federal courts, rather than permitting them to initiate removal action only as, when, and if prejudice is shown.

For the foregoing reasons, AVC proposes the addition of language to the following effect to the bill before the committee:

"SEC. —. Title 28, United States Code, section 1443, is amended by the addition of the following subsection:

"(3) The right of removal under this section shall be freely sustained, and this section shall be construed to apply to any State action which denies or abridges equal rights, including executive, legislative, administrative, and any other."

"SEC. —. Title 28, United States Code, section 1446(c), is amended by deleting the words 'before trial.'"

"SEC. —. Title 28, United States Code, section 1447(d), is amended by deleting the word 'not.'"

REIMBURSEMENT

Section 304(d) of the proposed bill provides that where a school board or local government is deprived of funds because it is attempting to desegregate, the Commissioner may make a loan to the school board or local government in question. While section 304(e) provides that the loan shall be made upon such terms and conditions as the Commissioner shall prescribe, there is no provision for recoupment or other reimbursement.

AVC proposes an additional subsection to section 304 which will explicitly allow either or both of the following procedures:

(a) A suit by the Attorney General on behalf of the United States against the State or local government which has withheld the funds in question, for reimbursement of the loans made under section 304(d), or

(b) A provision by which the Attorney General, in his discretion, may recoup the amount of such loan by withholding a part or all of the funds otherwise payable to the State or local government unit which has withheld funds, under some other program.

As an example, suppose State A withholds funds from local school board B because the school board is making a conscientious effort to comply with this law. Under AVC's suggestion, the Attorney General may sue State A to recover the moneys lent, or recoup by reducing the funds paid to the National Guard of State A.

The American Veterans Committee appreciates the opportunity to present its views before Subcommittee No. 5 of the House Judiciary Committee and commends the committee for its careful study of this crucial domestic issue.

Thank you.

Mr. RODINO. Dr. Kuttner.

STATEMENT OF DR. ROBERT KUTTNER, PH. D., OF OMAHA, NEBR., REPRESENTATIVE OF LIBERTY LOBBY, WASHINGTON, D.C.; AC- COMPANIED BY JOHN W. WOOD, ESQ., GENERAL COUNSEL

Mr. WOOD. Dr. Kuttner is a teacher in normal biology at the Creighton Medical School, Omaha, Nebr. He holds a Ph. D. from the University of Connecticut. He is president of the International Association for the Advancement of Ethnology and Eugenics, a non-profit educational organization devoted to the critical examination of race science and race relations. He is assistant editor of *Mankind Quarterly*, a Scottish journal devoted to ethnological questions.

Dr. Kuttner appears in opposition to H.R. 7152 and speaks for Liberty Lobby, a political action organization composed of voters and citizens in all of the 50 American States who are interested in good government.

Dr. KUTTNER. I want to direct my remarks briefly to some of the suppositions underlying title II. This is the section which argues that serious economic harm would result if Negroes or members——

Mr. RODINO. Excuse me. You have a prepared statement?

Dr. KUTTNER. I have no prepared statement. I have only the outline.

This section argues that serious economic harm results if members of minority groups or Negroes fail to secure services of goods in certain segregated facilities that are part engaged in interstate commerce or catering to interstate traffic.

I don't believe this has any demonstrated basis in fact. Whatever the faults are in the American economic system, it has never been seriously suggested by any theorist in economy or finance, that this is affecting our economy in any crucial manner.

I think it is worth noting that the corporate organization executives and the majority stockholders in large corporations are not the ones that are demonstrating and rioting in the streets.

It is true that it is sometimes claimed that discrimination and prejudice are costly on a society-wise scale. Even in this broadened sense, however, such economic rationalizations do not provide much support for this portion of the bill.

We know that the Germans had a reputation for efficiency. Mr. Reuther made a point of that in his statement, and yet the Nazi Party, exiled and executed scores of thousands of talented scientists, teachers, doctors, bankers, and lawyers who were members of a minority group and against whom they entertained prejudices.

Apparently then the German theorists did not regard prejudice as harming the national efficiency, even though they were engaged in a crucial struggle for control of the world.

Likewise, Lenin and Stalin were deeply prejudiced in that they executed many scores of thousands of middle class businessmen and upper class bureaucrats and administrators. Yet likewise, they are dedicated to social efficiency and economic prosperity.

Even today in modern Russia it is well known that the Asiatic Russians, the Mongols and others, get a third-rate treatment. Even in parts of Europe and Russia, the non-Russian nationalities suffer a semicolonial exploitation and are victims of prejudice and still the Russians may land on the moon first, so that I believe that it is an evident fact that the economic argument is far fetched and I don't believe it can be seriously entertained that the production of cars in Detroit or steel in Pittsburgh is measurably influenced because a Negro entertainer cannot drink a cup of coffee with a white man in a Birmingham bus terminal.

I may say, so far as economic——

Mr. MEADER. May I interrupt? Are you making the point that the regulation of interstate commerce is not an appropriate basis for combating discrimination of accommodations?

Mr. KUTTNER. I am trying to make this point; that the economic rationalization that precedes the presentation of title II is not valid.

Mr. MEADER. Are you saying that a denial of access to motels, hotels, restaurants, and other accommodations for Negroes is not a burden on interstate commerce?

Mr. KUTTNER. I am saying that it is not a serious nor a substantial influence upon a national economy and from this point I wish to then get to perhaps the underlying reasons for the title action and then discuss whether or not this would have a beneficial effect. This is just my introduction.

Mr. MEADER. I followed what you were saying, but I was trying to relate it to the bill. It would seem to me that the point you were trying to make was that discrimination in public accommodations was not a burden on interstate commerce and it was stretching the power of Congress to regulate interstate commerce to reach that area by means of calling it a regulation of interstate commerce.

Dr. KUTTNER. I don't wish to attempt to define what the powers of Congress may be. I only wish to—I will make this point, that the argument used, economic argument used, the analysis used will not stand up under critical examination and that it is perhaps disguising some other reason for the attempt to regulate the private property engaged in—

Mr. MEADER. I haven't heard anyone who is advocating this legislation argue that discrimination in public accommodations is holding back our economy. I haven't heard that argument by anyone.

You seem to be destroying an argument that no one has made.

Dr. KUTTNER. I see here on the bill several portions which say that goods and services of persons, amusements, diners, movement in interstate commerce, and so forth—then it says "because of audience discrimination."

We have burdens imposed on interstate commerce by those practices and the obstructions that would result therefore are serious and substantial.

Mr. FOLEY. Right there. Where is the economic reference?

Dr. KUTTNER. Page 10. The one I just cited was page 11.

Further places are at, well, line 23 on page 12, that the industrial and commercial expansion and development of the Nation is damaged because some business organizations may not relocate in one place because of prejudice or discrimination. These are economic arguments. I question because I think the far more serious discrimination outside of interstate commerce and facilities involved in interstate commerce need not necessarily lead to main economic dislocation and then from that point I want to develop the rest of my thesis.

Mr. RODINO. Well, doesn't discrimination exist?

Dr. KUTTNER. Do I question that it exists?

Mr. RODINO. Yes.

Dr. KUTTNER. No; I don't question that it exists.

I will question later, as I develop my point, that the attempt to control it by legislation and by compulsion may create greater harm than the prejudice itself is supposed to engender.

Mr. COPENHAVER. If the accommodations provision was keyed primarily on the 14th amendment, would you have any objections to that?

Dr. KUTTNER. I would like to partially evade answering that for this reason, that I would like to present a sort of a viewpoint of a scientist, rather than a constitutional lawyer.

I don't feel that I would be qualified to decide these things, but if you ask my personal opinion—

Mr. COPENHAVER. Assuming, as most lawyers do, that under the 14th amendment it would be constitutional, would you agree that it would be desirable to have an accommodations proposal?

Dr. KUTTNER. I believe personally that regulations of activities like interstate commerce, insofar as—

Mr. COPENHAVER. I wasn't talking about interstate commerce. I was talking about the 14th amendment.

Dr. KUTTNER. I see. Do I believe in the application of the 14th amendment to discrimination and localities—well, a discrimination about private property—

Mr. COPENHAVER. With regard to a hotel, again held out to the public in general.

Dr. KUTTNER. I would regard the application of the 14th amendment to a hotel privately owned as being, in my opinion, again not as a constitutional lawyer, as invalid.

Mr. COPENHAVER. Therefore, you are totally opposed to a public accommodations bill, whether it be the 14th amendment, the 13th amendment—

Dr. KUTTNER. I think that this would be my case, but I am going to argue it on the basis of the fact that such legislation would be harmful to society. I am still not answering the question.

Mr. RODINO. Pardon me.

To get to a more basic point, you are talking as a scientist, you say.

Dr. KUTTNER. I would like to confine my remarks to scientific analysis.

Mr. RODINO. We have this legislation in effect and we think it is a problem with which it is confronted. I don't know whether or not the scientific discussion—while probably something we are going to interest ourselves in—is going to shed any light on legality and constitutionality, as I see it.

Therefore, I would ask one question, basic; If there were any other area in the public accommodations clause than the 14th amendment, would you be in support of eliminating discrimination?

Dr. KUTTNER. I would like to continue the outline of my remarks and I will omit the economic analysis.

I would say that, from the context of my other remarks you might obtain your answer.

I would come to this, what let's call a perhaps more pertinent than the legal rights matter:

The fact is that it is believed that there would be some benefit obtained for the Negro if he could enter into public accommodations engaged in interstate trade to some extent, and that there is legislation to this end.

I want to make the fact of compulsion here central to my argument, because in this case this is a factor that remains visible to people who are opposed to this integration.

The Negro has a high social visibility and is a distinct individual, racially distinct, and when present in a forcefully integrated situation, he is a reminder of the fact that rather than welcome, it was law which entitled him to enter into this facility.

Then this is a chronic irritation and opposition to this type of integration, which might before have been the result of a mild negative

attitude on the part of the whites, may now become active hostility because of that element of compulsion and because of the fact that there is a constant reminder there.

Mr. COPENHAVER. Do you want to hide the Negro, then?

Dr. KUTTNER. I don't want to hide the Negro, but I am saying that civil rights legislation, enforcement compulsion in this area can be harmful and that this is a consideration which may make some bills produce more harm than good.

Mr. COPENHAVER. Do you not believe that by continually requiring the Negro to be a second-class citizen—you seem to almost support the Black Muslim philosophy—you want to keep him totally separate.

Dr. KUTTNER. The Black Muslim movement itself has a complex origin and it is certainly not the first time that a racial group has sought isolation and separation. The fact is that there have been in the past attempts by Negroes, attempts to set up their own colonies, Oklahoma, for instance.

Then there was the Garvey movement, attempts to remove the Negroes from the white. This then is not a unique phenomena.

Mr. COPENHAVER. But they have all failed.

Dr. KUTTNER. The failure of these movements—of course Garvey's resulted in imprisonment, I believe, but he had secured a following which was in his time a far greater percentage of the Negro population than the NAACP can today claim among its supporters.

I think the desire of distinct ethnic groups or distinct racial groups to withdraw or preserve their culture or develop a culture is not abnormal.

I am not prepared to say, because my knowledge of the Black Muslim movement is naturally based upon what I read—that this is the result of a genuine desire to withdraw or whether it is a regression syndrome. This is an opinion that we will have to wait on before more evidence is in.

Mr. RODINO. Dr. Kuttner, if whites were denied educational opportunity and economic opportunity, would you be making the same argument?

Dr. KUTTNER. Well, I would like to say that there are special situations where the denial of rights or nonexistence of rights may not bar progress in some sense or in some direction. We are dealing with the development of a society and this must develop and mature on its own feet. This is the Negro society.

Mr. RODINO. You don't believe in helping it along?

Dr. KUTTNER. I would believe in helping it along, but I would be very careful that the kind of help I was giving was not actually hindering and this is a point that I think I will make from my notes in a moment.

Mr. RODINO. Proceed.

Dr. KUTTNER. I made this point that compulsion may convert a negative attitude to active hostility.

Mr. RODINO. Compulsion on whom?

Dr. KUTTNER. Compulsion to integrate into social activity, what might be entertainment.

Mr. RODINO. This is not compulsion. This is merely recognition of rights that we believe exist and which we are trying to implement. Now on whom are we compelling this?

Dr. KUTTNER. The fact is that we have a private property engaged in interstate traffic or interstate trade. This might be a sports stadium in the South or it might be a hotel that has entertainment or it might be an eating facility. This is private property. Previously it was segregated.

The white clientele, let us suppose, were present here from habit. This was the social custom of the area. Now, you say that the Negro, because of this law or simply existing laws, or some preexisting law or right is entitled to walk into this area or this facility and the owner of it is not entitled to bar him.

Now, this is a question that I believe comes out of the philosophy of title II, whether this is right or wrong. You seem to have already decided that the right is present and exists and that it cannot do any harm to assert.

Mr. RODINO. Because he is a citizen of the United States.

Dr. KUTTNER. Also there is the right of private property—

Mr. FOLEY. Do you believe in the dignity of the human being?

Dr. KUTTNER. I certainly do.

Mr. FOLEY. Do you believe in natural rights?

Dr. KUTTNER. I am afraid that natural rights is sometimes used to justify what someone believes in. It is always a natural right when it is a right we believe in.

Mr. FOLEY. Do you believe in God-given natural rights?

Dr. KUTTNER. I believe that people have used that phrase to justify the rights that they have believed in.

Mr. FOLEY. That is your philosophy.

Dr. KUTTNER. This is a historical fact. It is the divine destiny of Nazi Germany to do certain things. This was their natural right.

Mr. FOLEY. You speak about compulsion, Doctor. Let me say to you right here and now, if it wasn't for compulsion that brought the Negro from Africa into America as a slave, you would not have that problem today.

Dr. KUTTNER. I am aware of that. The origins of the problem, unfortunately a knowledge of them, does not help in the solution of it.

Mr. RODINO. But we want to admit that the problem exists and to help it along, according to your argument.

Dr. KUTTNER. I am saying that there is a way of avoiding group animosities, or many ways—of course I have no monopoly on solutions either, or theories—but the fact is that compulsion and compulsory tolerance in intergration in general, not only this bill—it is my belief—can be harmful and that individuals who previously were not strongly prejudiced, but merely had the appearance of coping with the social prejudice of the area that they may have occupied, may develop a more active prejudice and actually a hostility because of the element of compulsion.

This, of course, is a point where you set compulsion on an existing right. Well, I want to continue my statement and perhaps this might provide a partial answer.

I believe that the Negro society exists and it has a structure. This is well recognized even by Negro sociologists, but I believe that this Negro society, if it is grafted onto a white society, and elements of compulsion are involved, where they are not applicable, that this would create harm to the Negro society.

It is no secret that association with white people has for some segments of the Negro population become a sort of status symbol and that this has resulted in many activities, it has resulted in intermarriages, as has happened in Africa, for example, where we find that Negro leaders frequently find it necessary on a political prestige move to have a white wife, or a wife from a light-skinned race.

It has happened in our country that Negro leaders have regarded it as a sign of success to have a white wife, to be accepted in white society, to mingle very intimately in white society and that in the past and even in the present, leaders of militant Negro movements have had white wives or white husbands.

Mr. CORMAN. Could you touch briefly on the motivation of the white wife?

Dr. KUTTNER. This, I say is a status symbol——

Mr. CORMAN. That is the motivation of the Negro man. What is the motivation of the white woman?

Dr. KUTTNER. That I can't answer. I would say that when it is a case of status symbol for the male or, of course, sometimes the Negro female may marry a white male, but the point is that if it is a status symbol, this is an extreme symptom of something that is abnormal and that you would not regard as a personal relationship in the sense that we are accustomed to regard marriage.

I say then that this is a symptom, an abnormal symptom when a society, a developing society seeks to graft itself on, and to intermingle with another society, especially when it is not coming in under an automatic welcome.

I feel that this type of acceptance and intimacy which is not automatically offered is harmful.

Mr. RODINO. Right there, the individuals entering into marriage, are they being——

Dr. KUTTNER. I am using that as an extreme example, but there is also the fact of association. I feel that if this type of association is used as a measure of how far up a social ladder one has gone, let's create an example. The one of the Negro individual who has the right to eat a hamburger next to a white man, might regard this as raising him a step higher than the one who can merely attend an integrated basketball game. This type of measuring of esteem and of success is abnormal.

The roots of self-esteem and the individual self-image should be based on something more secure and substantial than this type of qualification.

Mr. RODINO. Whose guideline is that?

Dr. KUTTNER. Well, I think it is generally recognized that an individual's self-esteem should be based upon some real accomplishment, not acceptance, especially an acceptance which may be a legally required or a fostered——

Mr. RODINO. Without presupposing that one individual is better than the other as a human being, if I have the feeling that another individual is more elevated economically and socially established status, and I want to get is there something immoral about that?

Dr. KUTTNER. This is again a complicated question. I recognize the fact that there are other things that enter into a person's self-image and that you may be able to point to other accomplishments.

On the other hand, you may find an individual who is very successful and yet still requires a Cadillac with tailfins to really convince himself and his neighbors that he is successful.

Still this visible object is important, yet we would regard it as childish and perhaps it might not identify the man as a failure because he has other things which society recognizes as sufficient credentials or qualifications.

I again seem to have wandered from what I wish to remark.

Mr. RODINO. I am sorry. Go ahead and finish your statement.

Dr. KUTTNER. To summarize it, I don't believe that a person can gage his upward progress by how successfully he has penetrated a place or area where previously he was unwelcome and the legal basis for this is another matter that I recognize.

Psychologically and sociologically there is the question of preserving the position. What I sought to make, and again I repeat, that compulsion in such situations can create hostility and not intimacy.

I have a third point here that I feel is worth making because of the great emphasis given to tolerance throughout the world. I am a believer in tolerance. I think this was asked by one of the counsel. I believe in tolerance, of course, and I am not even going to condemn compulsory tolerance if in some situations and some places, and certainly by the assurance that it would be successful, I would not condemn it. But the point is made that the world watches us.

I believe Mr. Reuther made that point, and it is well known that Mr. Reuther has contributed throughout the world financially, and so has his brother and so have many organizations in many foreign countries where minority groups or even suppressed majorities sought to assert themselves, but the point is that we know that the rest of the world is not tolerant and there is no place that we can point the finger and not find within at least fairly recent times examples of atrocities and intolerance. Because this is widespread. I do not say that we must tolerate intolerance, but I say that this is a consideration and if we are to be setting an example to the world with out tolerance, an example to an intolerant world, actually, because we know that from Iceland to South Africa, and to India and Japan, there are extreme cases of intolerance, and that these gentlemen who travel around the world speaking to the intellectuals about our difficulties rarely bother to cross-examine their friends, and ask pointed questions about their shortcomings.

But the other thing, if an example is so important, I feel that the fact that now this title II provision, which would be regulating private property, and, of course, there are other attempts to regulate private property in other legislation, I think private housing, which is not a question here perhaps.

The fact is that the tendency and increasing tendency to regulate private property is setting an example to new nations and old nations that this country, which is the prime example of successful capitalism and free enterprise, and certainly the most important champion of the right of private property, is finding it necessary to regulate private property because we, for some reason, and in weakness, perhaps, are unable to use it properly, and this placing restrictions on private property—perhaps the motives behind some of this legislation may

be very high, but it is indicating to people, perhaps to propagandists, that the existence of private property has inherent in its elements of abuse and that the consumption of service and goods, even though they are emanating from private facilities, must be regulated. And this, I think, encourages Marxism, inasmuch as the fact that Marxist propaganda has raised instances of racial intolerance in this country.

I will return to the compulsory tolerance. It has been legislated before. The best examples are the minority treaties after World War I and the idea was, of course, that in these newly created nations, new minorities existed and must be protected from the majorities.

As the example turned out, the League of Nations managed, with what effectiveness it had, to review cases of intolerance, but the general situation was that these hostilities, which might have been minor in some cases, as say between a Czech and a Sudeten German, blossomed forth in a single generation in such rank animosities that racial wars developed.

World War II is marked by conflict between every minority that had a guarantee as to its security. When compulsory tolerance was imposed on the Ukrainians in Poland, this did not mean that the Ukrainians who passed through Poland in German uniform prevented or suffered any inhibition. They massacred the Poles and likewise the animosity between the Croats and the Serb, which previously was minor, to massive atrocities, murdering hundreds of thousands of people. Likewise the Slovak and the Czech, guaranteed under the peace treaties, did not spare these people strife and the Czech-German and many others, the Hungarian and Rumanian animosities. Here we had compulsory tolerance.

The majority resented the fact that they had to tolerate someone, that they previously tolerated, previously, anyway, but perhaps not perfectly, and perhaps with—perhaps we should consider that they had justice on their side from a historical viewpoint.

We cannot examine each case, but the general trend has been in cases of this kind to increase animosities and this is a factor I feel which deserves consideration.

I believe that in legislation regarding integration we sometimes lose sight of other realities which deserve to be considered. The Supreme Court considered such realities worth referring to in the 1954 decision.

Psychological, biological, sociological facts cannot be ignored in making good laws. There are some cases in which people believe that segregation can be good.

The fact is that the Catholic Church maintains that the faith of its children is strengthened if they attend segregated schools.

The other point of view, of course, is that if this is so, perhaps we should consider that integration may not always be beneficial, or not beneficial to all parties.

I am very familiar with one example where it is stated that the purpose of education is to not just instill the three R's; that this is obsolete. The purpose of education is to give experience in life and this has been used by Negro psychologists and sociologists, even though the status of white students might be impaired. Legally they don't need this justification.

Nevertheless, the viewpoint of the white parent might be—where in the South Negro illegitimacy might approach 25 percent—and this

happens in many counties in the South—or what benefit do the white children get by attending school with such children? That question of morality is important here.

Mr. FOLEY. What if it was an illegitimate white child attending school with legitimate Negro children?

Dr. KUTTNER. Likewise.

I don't feel that probing my motives and reactions here throws any light upon the real situation.

Mr. FOLEY. What?

Dr. KUTTNER. On the real situation.

Mr. FOLEY. I think that throws a lot of light on that.

Dr. KUTTNER. Well, we have a real situation. We have school districts in the South where there are some students. Negro students, 25 percent, 22 percent, 23 percent illegitimate.

Mr. RODINO. Dr. Kuttner right there: The fact that there are so many who are illegitimate, don't you believe that this is a consequence of a denial of economic opportunity, educational opportunity, and that if there was a correction of this, that the situation would not prevail?

Dr. KUTTNER. Well, I can't answer that question. I know that with the improvement of economic conditions there is usually a stronger social situation. There are those, they do not have to be Negroes, who will take on the dominant character. I would like to point out that improvement in social conditions doesn't always improve standards of morality. We know that crime in northern cities is higher than in southern cities. There are many explanations for this and I am not prepared to discuss all the viewpoints presented. I have no personal knowledge of which viewpoint may be correct.

Mr. CORMAN. As a scientist, Doctor, can you tell us how much morality is hereditary?

Dr. KUTTNER. I would say very little of morality is hereditary. In fact, I would say on the question of morality it is not quite the matter to invoke.

Mr. CORMAN. We were worried about the marital status of the student.

Dr. KUTTNER. When I made that reference, I tried to bring out the fact that integration in every situation does not give automatic benefit to a group, or both groups, or many groups, and that the white parent can justifiably be concerned and disturbed that his child—and I am not questioning the reason for the Negro illegitimacy, this is a social reality—that this child, the white child goes to school and learns that there are families without fathers.

Mr. CORMAN. It would be a legitimate decision for a man to make, and they permit illegitimate whites to go to school as well as black ones.

Dr. KUTTNER. I didn't get that.

Mr. CORMAN. I say wouldn't that be a reasonable conclusion that a school district could make a decision that white illegitimate children would not be permitted to go to school with black illegitimate children?

Dr. KUTTNER. Even children who are married in high school are sometimes barred from continuing in the public school.

Mr. CORMAN. My inquiry is as to the illegitimacy of the child would be a proper decision for a school district to make, that they

would not permit an illegitimate child to go to school, under your theory.

Dr. KUTTNER. This is a proper matter for them to concern themselves about. I don't want to say what the decision should be.

I made this example here for the purpose of finding, perhaps a hypothetical one in some areas of the country, but nevertheless, it is worth remembering that the white parent in the type of situation I remembered would consider himself damaged and his child damaged, so integration I feel is not, as far as white people are concerned, always of an automatic merit.

I recognize that I am taking up more time——

Mr. RODINO. Yes.

At this point, Doctor, not meaning to be discourteous to you, could you tell us just how much more time you will need to make your presentation?

Dr. KUTTNER. I am sure there won't be any questions, so I will finish in less than 5 minutes perhaps.

Mr. RODINO. I don't mean to cut you short, but nonetheless——

Dr. KUTTNER. I feel that I am being cut short, but I recognize that it is not your fault.

Mr. CORMAN. I wonder if you might, during your remarks, because I think that you really go to the heart of the problem of segregation, as such, rather than just segregation in places of public accommodation, I wonder if you could comment a little bit for us as to how you feel about compulsory integration in schools?

Dr. KUTTNER. I would like to meet those remarks. I would like to meet them, and I recognize that though I may have wandered from the bill, I see that other people have likewise wandered.

I make the point that the fact that white negative reactions can occur, I make this point only to remind this audience that harm can come from it, and we know that in many social integration situations, a great deal of strategy has to be devised to accomplish the end.

For instance, when a community is integrated, it is understood that you must scatter Negro families in all directions, so that there is no refuge area for white people who want to leave. This strategy is, itself, evidence that the white community has a negative feeling about this, and that again antagonisms can be created by it.

This is worth considering, not only from the private accommodations, private housing, too.

I also think that the fact that this legislation has been proposed, it is obviously a hasty reaction to the demonstrations, and I feel that this element of haste may have made it a weak or poor piece of legislation.

We know there are many serious inequalities in American society. I know that the American Indian exists under conditions far more appalling than the Negro.

Mr. FOLEY. It applies to the American Indian as well as the Eskimo up in Alaska.

Dr. KUTTNER. I recognize that, but I know that there has been no mark of deep concern previously, because the American Indian is not numerically of much concern so far as voting is concerned, and yet I think people interested in this question have known that the compari-

sons between Negro and Indian are far in favor of the Negro, so that if this legislation—

Mr. RODINO. At just this point, I think only today I saw a poll which indicated that the people, the general public is for recognizing equality of opportunity of all peoples, so your point, when you talk about the recognized question of voting and your recommendation and inferences that there is political motivation here falls flat, because I think if we would poll all the American people we would find that all the American people, regardless of the method we would use to implement what they believe is basic human right, believe in basic human rights and believe in trying to give these people and all people equality of opportunity.

Dr. KUTTNER. I think there is no question that we would have to agree there on the fact that everybody wants maximum benefits, even though a southern representative might, in some cases, regard a separate school as offering the best opportunity. He might run into some dissention, but this might be his sincere belief, and he might feel that an integrated school in his community would meet with harm.

I would not accept, however, whatever the American public thinks, because I regard polls as sometimes misleading. There are many polls taken, and you can poll people from various communities.

I know of one poll in New Jersey where everybody thought it was fine to integrate schools, and then they made the point in integrated schools, would you send your child to a school with 75 percent Negroes and the acceptance fell sharply.

So I don't feel that if the question is always framed specifically, we might find a surprising amount of unwillingness to integrate or give opportunities, even.

But I would like to, since the question of heredity was raised, and since Mr. Reuther remarked about the slum child, I would seriously question whether or not the element of heredity does not enter into some areas of performance in society.

There is no question that this is the most urgently—requires the most urgent investigation. We have suffered a blight for a long time because genetic explanations for group differentials' performance were regarded as Fascist or racist, and there has been a decline in that type of work.

However, there is a growing interest in that area now and I feel that it has become respectable again to say that people can differ intellectually and groups can differ intellectually and that this performance might be important in some roles, in some areas.

Certain genetic differences should be recognized in some places in some areas. This certainly could not be a minor concern in school performance, and there is a great need for research in this area to find out how much environment contributes and how much heredity.

I will warrant that there may be some surprising discoveries for people who are exclusively, who believe exclusively in environmental influences.

There have been times when this kind of explanation has fallen down completely.

I think I have summarized my view.

Mr. COPENHAVER. Doctor, do you believe in the doctrine of race superiority?

Dr. KUTTNER. No, I don't believe in a doctrine of race superiority, but I do recognize race differences, and this might mean that one race might perform better in one task than another.

Mr. COPENHAVER. Then you do believe that there are—

Dr. KUTTNER. I believe that there are differences in performance, that these differences are not merely physical, but they may touch strongly or release to a measurable extent into the sphere of intellectual achievement.

Mr. COPENHAVER. Therefore, you do not believe that there is race equality?

Dr. KUTTNER. I do not believe that there is equality on the great majority of items that one could measure.

Mr. COPENHAVER. Secondly, you were referring to a situation where there existed a high rate of illegitimacy in certain areas, among the Negro population. You say that the white parents shouldn't be required to send their children to that school. What about the Negro parent?

Dr. KUTTNER. I made that reference to point out the white resentment, the white parent feeling that his child is mixing with people who might reveal standards of behavior which are unacceptable perhaps by the white parents.

Now what about the Negro parent? I can understand that a number of things may pass through the Negro parent's mind, if there was no other school facility of comparable equality available, the Negro parent would doubtless feel that his child should enter that school regardless of what happens to the white child.

On the other hand, there may be Negro parents who feel that their child should go to a separate school even if their child is legitimate, so I can't probe all the possible thoughts that the Negro parent may have.

I think that the question here is not exactly pertinent to the point that I tried to make.

Mr. COPENHAVER. I submit it is directly pertinent.

Dr. KUTTNER. I cannot answer that question for you. I imagine a number of—

Mr. COPENHAVER. I may say to you that you have been here for an hour trying to give us the viewpoint of what the white parent thinks. I ask you a question and you hold yourself out to be an expert in some form in this area.

I now ask you to put yourself in the position of the Negro parent who desires to give his child a decent education.

Dr. KUTTNER. If the Negro child enters into this school in an atmosphere clouded with hostility, I believe the Negro child would suffer damage, and I believe that if the Negro parent was aware of that, he would be concerned about that psychological damage.

We know that the Supreme Court regarded this as an important matter, and if the 1954 decision is fresh in your mind, they cited the fact that the Negro child suffers damage from the mere fact of segregation, even though, of course, the actual study, as was pointed out, revealed that the damage was greater in integrated northern schools than in segregated southern schools.

These were the famous tests conducted by Dr. Clark.

I think perhaps if the Negro parent was acquainted with the fact that his child might suffer greater damage in a forcefully integrated school, or even in a voluntary integrated school, he might have second thoughts.

Some may and some may not. Much depends upon the atmosphere of the moment.

Mr. CORMAN. You said that you represent organizations and people in 50 States. Could you tell us who the organizations of people are in California?

If it is a lengthy list, you might want to put it in the record, but if it is short you might just tell us. Who do you represent in California?

Mr. WOOD. We don't represent organizations as such. We have members of our board of policy who are active in other conservative organizations. We have membership that overlaps in many conservative organizations. I would say all conservative organizations, we have representative membership. We have 25,000 subscribers in total.

Excuse me, sir.

Mr. CORMAN. You have some members of the board of policy that are members of the John Birch Society, for instance?

Mr. WOOD. I suppose so. I am not familiar with—

Mr. CORMAN. Is Billy James Hargis a member of your association?

Mr. WOOD. He is no longer a member of the board. He was, up to a year ago.

Mr. CORMAN. How about Tom Anderson?

Mr. WOOD. Tom Anderson was a member of the board up until about a year ago.

Mr. CORMAN. Mr. Brackenlee?

Mr. WOOD. Yes.

Mr. CORMAN. Sumter L. Lowry?

Mr. WOOD. Right.

Mr. CORMAN. R. Carter Pittman?

Mr. WOOD. Yes.

Mr. CORMAN. Reading from one of your publications:

Washington, D.C., is an occupied city. It has been captured by an aggressive coalition of minority special-interest pressure groups. The Federal Government is the obedient servant of its captors, which band together as the occasion demands, to manipulate Government force in order to pry from the majority of Americans special privilege and power.

Another one:

The arms of the world octopus of power move in different directions at all times.

Might I ask if this concern for civil rights and what has become recently known as the movement, would you discuss that in relationship to this world octopus?

Dr. KUTTNER. I am not acquainted with the world octopus. I have no responsibility for the material in the publications or some issues of the publications of the Liberty Lobby. I am here merely to present a scientific viewpoint which the Liberty Lobby, or members of it, feel is worth presenting.

Mr. CORMAN. So to make the question more simple then, Is there any relationship between the Communist subversive movement and the civil rights effort?

Dr. KUTTNER. Well, I would say one thing. The question of communism, if it pertained to scientific opinion, I could perhaps give you a partial answer. In the area of generating scientific opinion, Communists have been active.

What they are doing in the civil rights movement as journalists or as union leaders or any other type of occupation, I could not speak, but in the area of scientific opinion there has been Communist activity, and I think it is well documented and well tested. I can cite for you one example, and this is the famous biologist's manifesto, which has been reprinted in several books on race questions, and this was framed at the 1939 meeting of the Geneticists Society in Edinburgh, and held to be the viewpoint of the geneticists of the world. This was actually framed by seven partisan people, and I think the studied works of these people—Haldane indicates that there is no question of where their allegiance was at the time, and others make such remarks, "We await the day when the worker is in control and the capitalist is down-trodden," and claim Lenin as the greatest gift to the 20th century.

These statements have been published in Negro publications as a scientific viewpoint. I think the thing was fraudulent. The meeting was adjourned because of the imminent outbreak of war and just a group of American-English extremely partisan people were present to frame it.

Mr. CORMAN. To get to something more recent; you are here to testify for the Liberty group. Do either of you gentlemen believe that this movement, which is very obvious throughout the country, to attempt to do away with segregation, is that in any way a part of this overall subversive world movement that I take it your organization—your personal opinion or the position of the Liberty Lobby?

Dr. KUTTNER. I don't speak for the Liberty Lobby on this particular question, but my personal opinion would be that a good portion of the agitation comes from misguided individuals who have misjudged the extent of damage that some of their actions may produce. I would not say that everything of this kind can be traced to the Communists. I don't know what their activities may amount to in this front. We know that the Communists, themselves, are not averse to practicing segregation and have practiced it, and I feel that—

Mr. CORMAN. Then the movement would be inconsistent—

Dr. KUTTNER. In view of some of their practices in Russia, it would be. What they would be doing here and what the local tactics would call for, I couldn't say, but I feel—it is my personal opinion—having no specific knowledge of what a journalist, labor leader, a scientist, a person of no acquaintance to me or a politician in some local area may have behind him, I couldn't say. But I would say that personal opinion, again, is misguided idealism, and it is a dangerous idealism in some cases, which calls forth hasty action on a subject as sensitive and close to human emotion as the race problem.

It is discarded idealism which is responsible for much of it.

Mr. CORMAN. Do you have a comment on that matter, Mr. Wood?

Mr. WOOD. Liberty Lobby is convinced there is a great deal of Communist influence in the present agitation, as any reading of the "Peoples World" on the west coast or the "National Guardian" or "The Worker" on the east coast, makes quite obvious.

Dr. KUTTNER. I would add that I am aware of one fact, the very famous DuBois, one of the founders of the NAACP, who is now over 90 years old, if he is still alive, only some months ago openly embraced the Communist Party, though in the past, though he applauded Red China and called for the overthrow of one thing or another, along with his wife, they were never members of the party until he became 90 or over. Of course, he was recognized, he was a man with hundreds of affiliations, one of the founders way back then. Then, again, there are scientists who have been in public life and have committed things that one might suspect or that would identify him with the Communist Party. Maybe the germ warfare in Korea. Some scientists active in the controversy have subscribed to this, and one would say that this is evidence.

Mr. CORMAN. Would both of you concur with the statement that the struggle for desegregation on the part of the Negro is not a part of the Communists' subversive effort in this country, but rather that there may be Communists who attempt to use the unrest for their own purposes; is that a fair statement?

Dr. KUTTNER. Use it and create it also. I think this might be part of it. I feel that Communists are much too clever to omit any opportunity of this type, and that if we didn't have a race problem that they certainly worked to create it.

Mr. CORMAN. You also agree that segregation is a Communist practice?

Dr. KUTTNER. In parts of Russia, I think one of our Senators, I don't know whether it was Justice Douglas who toured Asiatic Russia and reported segregation there in a popular magazine about 4 or 5 years ago in the schools. And we know from the non-Russian nationalities that they have suffered prejudice and segregation and other difficulties, so that there is no question that in Russia, inconsistent as it may be with some elements of Marxist theory, there is this kind of thing.

Yet on the other hand, I recognize also that they are very strongly environmentalistic and that socialism will create a superman, and that by merely living in a socialist and Soviet environment is superior to capitalist humans.

Mr. CORMAN. Do you have for us the names of the representatives of your organization in California? Do you have that, or could we get it?

Mr. WOOD. We do not have representatives in California. We have approximately 5,000 people in California.

Mr. CORMAN. But you don't have any officers of your organization or any field representatives or anything of that sort?

Mr. WOOD. No.

Mr. CORMAN. Do those people just join by mail?

Mr. WOOD. Yes, sir.

Mr. CORMAN. Are there any other organizations that assist you in gaining membership in your organization?

Mr. WOOD. We work as closely as possible with all the conservative anti-Communist groups.

Mr. CORMAN. Would the John Birch Society be one of them?

Mr. WOOD. There are many members of the John Birch Society who subscribe to our service. We don't have any official connection with the headquarters whatsoever in any way.

Mr. CORMAN. Do you supply the study material to the John Birch Society?

Mr. WOOD. It is not our function to supply study material to anybody.

Mr. CORMAN. What quantity—you indicate they take some of your material. As I understand the John Birch Society—

Mr. WOOD. Anyone who wants to subscribe and receive our legislative reports may do so for \$1. This is the only connection we have with the 25,000 people who support us.

Mr. RODINO. Is that all?

Mr. FOLEY. Doctor, is Creighton University integrated?

Dr. KUTTNER. Yes.

Mr. FOLEY. That is all.

Dr. KUTTNER. It is an integration, of course—

Mr. FOLEY. It is a Catholic university, is it not?

Dr. KUTTNER. It is not only integrated racially, it is also integrated religiously.

Mr. CORMAN. One further question. You stated earlier that segregation didn't have much to do with national efficiency. And you cited here, accepting the fact that there was nothing wrong with it from the point of national efficiency, was there anything wrong with Hitler's solution, from the point of view of Germans?

Dr. KUTTNER. On the question of morality, I feel this question of morality is so simple that even though I am not speaking as a moralist I can answer it. I don't believe in violence of any kind or the artificial nonviolence which creates violence. I have no faith in the Ghandi-type activity because Ghandi, himself, knew well and good that he was going to meet violence in some of his movements. I believe in tolerance.

Mr. RODINO. Doctor, we want to thank you for coming here, and I will say that while we appreciate your testimony as a scientist, I would view with alarm if this were the prevailing opinion that has confronted others on the basic problem of human rights. Thank you very much.

Dr. KUTTNER. Thank you.

(The biographical sketch of Dr. Kuttner and his outline of testimony is as follows:)

Dr. Kuttner is a teacher in normal biology at Creighton Medical School, Omaha, Nebr., and he holds a Ph. D. from the University of Connecticut. He is president of the International Association for the Advancement of Ethnology and Eugenics, a nonprofit educational organization devoted to the critical examination and reexamination of race science and race relations. He is assistant editor of *Mankind Quarterly*, a journal devoted to examining the race questions. Dr. Kuttner appears in opposition to H.R. 7152.

OUTLINE OF TESTIMONY

1. The justification for title II—an argument based on economic efficiency—is false and disguises the fact that this portion of the bill attempts to propel the Negro into closer social proximity to whites. Doubtless, this is merely the first of a series of cumulative measures aimed at complete social blending.

Whatever economic good develops will be far outweighed by other consequences.

(a) The element of compulsion can create active hostility since the Negro has high social visibility and his presence is a constant reminder of his mode of entry, not by welcome but by law.

(b) The bill caters to the motivations underlying much of the drive for social blending. Association with whites has become for some segments of

the Negro population a sort of status symbol. This is abnormal and destructive to the development of a mature and stable Negro society.

(c) The bill suggests that Americans misuse private property and that state control is necessary to regulate the consumption of goods and services. This may make a bad impression in the new nations of the world and strengthen propaganda for socialism. It is as much Marxism to control consumption as it is to control production.

(d) Compulsory tolerance has historically failed to attain any idealistic end. The minority treaties after World War I, for example, did much to promote the fanaticism of World War II.

(e) Integration legislation in this and other cases often loses sight of existing psychological, biological, and sociological realities. The white majority may suffer injury in some cases. Integrationists believe that it is a valuable educational experience for white children to attend school with illegitimate Negro children, yet few white parents would regard this as a desired broadening of the purpose of schools.

Mr. RODINO. The committee will adjourn its hearings at this time until 2:30 this afternoon.

(Whereupon, at 1:05 p.m., a recess was had to 2:30 p.m., of the same day.)

AFTERNOON SESSION

(The subcommittee reconvened at 2:30 p.m., the Honorable Peter W. Rodino, Jr., presiding.)

Mr. RODINO. Your witness this afternoon will be Mr. Bennett, of the American Friends Service Committee.

Mr. Bennett, I would first like to say that although I inquired initially as to how much time you would take to present your testimony, I didn't mean to confine it to any 15-minute period, as you suggested. Although we would like to get through as early as possible, don't feel restricted or confined.

STATEMENT OF RICHARD BENNETT, CHAIRMAN, COMMUNITY RELATIONS DIVISION, AMERICAN FRIENDS SERVICE COMMITTEE, PHILADELPHIA, PA., ACCOMPANIED BY RICHARD TAYLOR, FRIENDS COMMITTEE ON NATIONAL LEGISLATION, WASHINGTON, D.C.; TARTT BELL, HIGH POINT, N.C.; AND BARBARA MOFFETT, NATIONAL SECRETARY, COMMUNITY RELATIONS DIVISION, AFSC, PHILADELPHIA, PA.

Mr. BENNETT. I would be more inhibited if everyone was starving.

My name is Richard K. Bennett. I am testifying on behalf of the American Friends Service Committee, as a member of its board of directors and as chairman of its national community relations committee. I also speak on behalf of the Friends Committee on National Legislation.

Richard W. Taylor, of the Friends Committee on National Legislation, Barbara W. Moffett, national secretary of our community relations division, and B. Tartt Bell, executive secretary of our southeastern regional office, are here with me.

We believe the United States is now facing its greatest opportunity since 1776 not only to keep faith with the tradition of freedom established then but also to further advance our understanding and practice of it. Though man's struggle for freedom and justice will never end, today's opportunity for forwarding that struggle may never come to